IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO. 8599 OF 2004 .

M/s Krishna Filaments Ltd. ... Petitioner.
V/s.
Union of India & ors. ... Respondents.

Mr.V.M.Doiphode for the petitioner.

Ms. Umane i/b S.S. Pakale for the respondents.

CORAM : V.C.DAGA & J.P.DEVADHAR, JJ.

DATED : 8.6.2006.

P.C. :

. Heard rival parties.

Perused petition.

2. Factual matrix reveals that this petition is directed against the order dated 21.7.2004 (Exhibit I) passed by the Joint Secretary to the Government of India, rejecting revision application filed by the petitioner against the order in appeal dated 4.10.2002 passed by the Commissioner of Central Excise (Appeals), Mumbai, confirming the order in Original dated 28.3.2002 passed by the Deputy Commissioner of Central Excise, Boisar Division, Mumbai-III.

Short submission:

3. Learned Counsel appearing for the petitioner without going into merits and other detailed

challenges set up in the petition; raised a short and solitary contention that the impugned order does not stand to the scrutiny of law in view of the law laid down by the Apex Court in the cases of Madhav vs. State of Maharashtra (1978) 3 SSC 554, and Anil Rai vs.State of Bihar 2001 (7) SCC 318 followed by this Court in Unique Coordinators vs. Union of India 2004 (165) ELT 396 (Bom.), wherein consistant view taken is that unexplained long interval between conclusion of arguments and delivery of judgment shakes the confidence of the people in judicial system and affects rights of parties under Article 211 of the Constitution of India.

4. It is not in dispute that there was delay of about 13 months on the part of the Joint Secretary to the Government of India in deliveering judgment from the date of hearing. In the circumstances, learned Counsel is perfectly justified in submitting that the impugned order is liable to be set aside on this short ground of unexplained delay resulting in breach of princiiples of natural justice and seeking remand of the matter with a direction to afford fresh hearing of the revision application.

5. Learned Counsel for the petitioner further submitted that the delay caused has seriously

prejudiced the petitioner inasmuch as the earlier order passed by the Commissioner (Appeals) dated 3.7.2001 in favour of the petitioner which was relied upon by the petitioner at the time of hearing has not been considered while passing the order impugned in the petition at hand.

. The learned Counsel for the Revenue tried to justify the delay but could not take her submission to logical end.

Consideration:

6. After having heard rival parties, submissions made by the petitioner deserves acceptance in view of the judgment of this Court in the case of Unique Coordinators (supra). The delay caused in reading order impugned has resulted in breach of princiipoes of natural justice. Hence, the impugned order is ab-initio void and is liable to be set aside on this short count.

6. Without going into merits or demerits of the impugned order, the impugned order is quashed and set. Matter is remitted to the Joint Secretary to the Government of India for deciding afresh following principles of natural justice within 3 months from the date of receipt of this order.

7. Rule is made absolute in terms of this order with no order as to costs.

(V.C.DAGA,J.)

(J.P.DEVADHAR,J.)